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| EXAMINER |
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SHEPPERD, ERIC W

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2453

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/590,178 | Applicant(s) LEVESQUE ET AL. | |
| | Examiner ERIC W. SHEPPERD | Art Unit 2453 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) 1,7,13,16 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/21/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on 02/19/2004. It is noted, however, that applicant has not filed a certified copy of the FR 04/50315 application as required by 35 U.S.C. 119(b).

Drawings

2. The drawings are objected to because: Descriptive legends are required for the entirety of Fig. 1 (see 37 CFR § 1.84(o)). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held

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in abeyance.

Abstract

3. The abstract of the disclosure is objected to because: The term “(@, P)” assumed to be a label is not shown in the drawings provided, nor is it expanded upon. The term “(Sld, SCIds)” cited in the abstract is not expanded upon. Correction is required. See MPEP § 608.01(b).

Claim Objections

4. Claims 1, 7, 13, 16 and 21 are objected to because of the following informalities: Claims 1, 16 and 21 recite the term “(@, P)” assumed to be a label is not shown in the drawings provided, nor is it expanded upon. Claim 7 recites the term “the couple (Sld, SCIds)” which is not expanded upon in the within claim. Claim 13 line 1, as amended recites “The method according to claim 10, , wherein,” which has an extra comma. Claim 16 lines 5-6, and Claim 21 lines 3-4 recite “adapted: to” as “Language that suggests or makes optional” raises a question as to the limiting effect of the language following the cited term (see MPEP 2106 II(c)) . Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 lines 8 and 10 and Claim 2 line 2 recite the limitation "said identifier" which lacks proper antecedent basis. For purposes of applying prior art the limitation has been construed as "said path identifier".

8. Claim 2 line 3, Claim 8 line 3, Claim 17 line 4, Claim 19 lines 2-3 and Claim 22 line 4 recite the limitation "the channel" which lacks proper antecedent basis. For purposes of applying prior art the limitation has been construed as "a channel".

9. Claim 3 line 3 recites the limitation "said access network" which lacks proper antecedent basis. It is unclear as to whether it refers to the "multipath" or to the "multichannel" access network. For purposes of applying prior art the limitation has been construed as "said multichannel access network".

10. Claim 10 line 2 and Claim 23 lines 3-4 recite the limitation "the access technology" which lacks proper antecedent basis. For purposes of applying prior art the limitation has been construed as "an access technology".

11. Claim 20 lines 2-3 recite the limitation "the network interface" which lacks proper antecedent basis. For purposes of applying prior art the limitation has been construed as "a network interface".

12. Claim 21 line 9 recites the limitation "said channel identifier" which lacks proper antecedent basis. For purposes of applying prior art the limitation has been construed as "said path identifier".

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13. Claim 22 line 4 recites the limitation "said access terminal" which lacks proper antecedent basis. For purposes of applying prior art the limitation has been construed as "said access network".

Claim Rejections - 35 USC § 101

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

15. Claims 16-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

16. Regarding claims 16 and 21, the claimed invention "comprising a mediation module" as software *per se* (specification of the application makes no reference as to whether "mediation module" is hardware or software, nor can it be adequately inferred by one of ordinary skill in the art that the "mediation module" is limited to hardware or a combination of hardware and software), does not fall within at least one of the four categories of patent eligible subject matter recited in 35 USC § 10 (process, machine, manufacture, or composition of matter).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1-12 and 14-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tonnby et al (WO 98/24224), in view of Baum et al (US 6,850,495 B1).

19. As to claims 1, 16 and 21, Tonnby substantially discloses a method, a system and a mediation module for a system, hereinafter referred to as a method, used by a terminal to access via a multipath access network a service made available on a communication network by a service provider, which access method comprises the steps of:

the service provider ("Service Providing Networks" Tonnby Fig. 1 item 50) supplying a mediation module ("Access Adapters" Tonnby Fig. 1 item 40; page 16 lines 20-23 *access adapters connected to service providing networks*) with information relating at least to the address of said service in the communication network (Tonnby page 16 lines 21-29 *adapters are associated with at least one address and a set of service primitives*),

the mediation module determining at least one identifier to be used by the terminal to access said service and associating said identifier with said information supplied by the service provider (Tonnby page 21 lines 16-31 *access adapter means having means to uniquely relate a distributed service access point*),

the terminal ("Network Terminal" Tonnby Fig. 1 item 20) receiving said identifier associated with said information from the mediation module during service discovery

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(Tonnby page 16 lines 25-27 *for each specific communication between network terminal and access adapter, a specific set of service primitives is used*).

Tonnby fails to explicitly disclose a path identifier.

Baum describes a method of limiting or controlling access to various services via a firewall.

With this in mind, Baum discloses a path identifier (“VPI” Baum Fig. 29 item 2982 *virtual path identifiers*). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to combine the method of Baum with the system of Tonnby as it would allow control of “access to various services and locations” (Baum column 28 lines 49-51).

20. As to claim 2, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 1, including wherein the multipath access network is a multichannel access network and said identifier comprises a location identifier of a channel of said multichannel access network to be used by the terminal (“VCI” Baum Fig. 29 item 2984 *virtual channel identifier*).

21. As to claim 3, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 2, including wherein the mediation module determines the multichannel access network to be used and receives said location identifier from said multichannel access network (Tonnby page 16 lines 25-27 *for each specific communication between network terminal and access adapter, a specific set of*

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service primitives is used).

22. As to claim 4, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 2, including wherein said multichannel access network uses DVB signaling (Tonnby page 6 line 29-page 7 line 2 *Digital Video Broadcasting (DVB)*).

23. As to claim 5, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 2, including wherein said path identifier further comprises an identifier of the technology of said multichannel access network (Tonnby page 47 Claim 51 *physical interfaces with respective link protocol for connectivity network common to said physical interface*; "Protocol" Baum Fig. 32 item 3235 *stored on mediation device*).

24. As to claim 6, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 5, including wherein said multichannel access network uses DAB signaling (Tonnby page 6 line 29-page 7 line 2 *Digital Audio Broadcasting (DAB)*).

25. As to claim 7, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 6, including wherein said path identifier consists of the couple (SId, SCIds) (Baum column 8 lines 3-11 *context information*

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comprising class of service and extended quality of service information).

26. As to claim 8, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 2, including wherein said terminal is tuned to the channel corresponding to said path identifier (Tonnby page 16 lines 25-27 *for each specific communication between network terminal and access adapter, a specific set of service primitives is used*).

27. As to claim 9, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 1, including wherein the multipath access network consists of a plurality of access network interfaces of the terminal and said path identifier is an identifier of at least one technology to be used (Tonnby page 41 claim 7 *set of terminal adapters; Tonnby page 21 lines 23-26 delivers to an adapter in the network terminal corresponding to the same technology of the sending access adapter*).

28. As to claim 10 the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 9, including wherein the mediation module determines the access technology to be used (Tonnby page 21 lines 23-26 *delivers to an adapter in the network terminal corresponding to the same technology of the sending access adapter*).

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29. As to claim 14 the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 9, including wherein said terminal is connected to the network interface corresponding to said path identifier (Tonnby page 41 claim 7 *set of terminal adapters connected to respective networks*).

30. As to claim 15, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 1, including wherein the information received by the mediation module from the service provider also relates to the service (Tonnby page 16 lines 21-29 *adapters are associated with at least one address and a set of service primitives*).

31. As to claim 17, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 16, including wherein the access network is a multichannel access network and the mediation module is adapted to determine the multichannel access network to be used and receives from said multichannel access network a location identifier of a channel to be used by the terminal ("VCI" Baum Fig. 29 item 2984 *virtual channel identifier*).

32. As to claim 18, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 16, including wherein the multipath access network consists of a plurality of interfaces used by the terminal to access networks (Tonnby page 41 claim 7 *set of terminal adapters*) and the mediation module is adapted

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to determine the access technology to be used (Tonnby page 21 lines 23-26 *delivers to an adapter in the network terminal corresponding to the same technology of the sending access adapter*).

33. As to claim 19, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 16, including wherein said terminal is adapted to be tuned to a channel corresponding to said path identifier (Tonnby page 16 lines 25-27 *for each specific communication between network terminal and access adapter, a specific set of service primitives is used*).

34. As to claim 20, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 16, including wherein said terminal is adapted to be connected to the network interface corresponding to said path identifier (Tonnby page 41 claim 7 *set of terminal adapters connected to respective networks*).

35. As to claim 22, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 21, including wherein the access network is a multichannel access network and the mediation module is adapted to determine the multichannel access network to be used and receives from said access network a location identifier of a channel to be used by the terminal ("VCI" Baum Fig. 29 item 2984 *virtual channel identifier*).

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36. As to claim 23, the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 21, including wherein the multipath access network consists of a plurality of interfaces used by the terminal to access networks Tonnby page 41 claim 7 *set of terminal adapters*) and the mediation module is adapted to determine the access technology to be used (Tonnby page 21 lines 23-26 *delivers to an adapter in the network terminal corresponding to the same technology of the sending access adapter*).

37. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tonnby et al (WO 98/24224), in view of Baum et al (US 6,850,495 B1), in view of Lang et al (US 6,188,699 B1).

38. As to claim 11 the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 10, failing however to explicitly include wherein, if a plurality of technologies can be used, the mediation module defines a relative priority of said technologies.

Lang describes a multi-channel network device for interfacing between a plurality of physical data links and a control processor.

With this in mind, Lang discloses wherein, if a plurality of technologies can be used, the mediation module defines a relative priority of said technologies (Lang column 13 lines 49-58 *interfaces lines are processed in a priority basis (i.e. fastest first)*). It would have been obvious at the time the invention was made to a person having

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ordinary skill in the art to combine the sending/receiving prioritization of the device of Lang with the access adapters of the system of the above combined arts of Tonnby and Baum as it would advantageously enable support for “large number of data links operating at high speeds” (Lang column 1 lines 41-42).

39. As to claim 12 the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 10, failing however to explicitly include wherein, if a plurality of technologies can be used, the terminal defines a relative priority of said technologies.

Lang discloses wherein, if a plurality of technologies can be used, the terminal defines a relative priority of said technologies (Lang column 13 lines 49-58 *interfaces lines are processed in a priority basis (i.e. fastest first)*). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the sending/receiving prioritization of the device of Lang with the network terminal of the system of the above combined arts of Tonnby and Baum as it would advantageously enable support for “large number of data links operating at high speeds” (Lang column 1 lines 41-42).

40. As to claim 13 the above combined art of Tonnby and Baum disclose the invention as claimed as described in claim 10, failing however to explicitly include wherein, if there is a plurality of interfaces for a given technology, the terminal determines the interface to be used.

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Lang discloses wherein, if a plurality of technologies can be used, the terminal defines a relative priority of said technologies (Lang column 13 lines 49-58 *interfaces lines are processed in a priority basis (i.e. fastest first)*). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the sending/receiving prioritization of the device of Lang with the network terminal of the system of the above combined arts of Tonnby and Baum as it would advantageously enable support for "large number of data links operating at high speeds" (Lang column 1 lines 41-42).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC W. SHEPPERD whose telephone number is (571)270-5654. The examiner can normally be reached on Monday - Thursday, Alt. Friday, 7:30 AM - 5PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. W. S./
Examiner, Art Unit 2453

/THUHA T. NGUYEN/
Primary Examiner, Art Unit 2453